IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1008 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

HAMATKHAN THAKORMIYA MALEK BHATTI & 1 - Appellant(s)
Versus
NARENDRA NAGORI SAHASTRABUDHDHE & 1 - Defendant(s)

==========

Appearance :
MR RM MEENA for Appellants,
NONE for Respondent No.1,
MR HS MUNSHAW for Defendant(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 11/09/2007

ORAL JUDGMENT

1. Mr.R.M. Meena, learned counsel for the appellants. None for the respondent No.1 though served. Mr.H.S. Munshaw, learned counsel for the respondent No.2.

2. The appellants – claimants (parents), being aggrieved by the Award dtd.11/2/1986 passed by the Motor Accident Claims Tribunal (Main), Mehsana in Motor Accident Claim Petition No.219 of 1983, are before this Court with a submission that the tribunal was unjustified in awarding a sum of Rs.25,000=00 only, in case of death of a young boy of 17 years.

3. Placing reliance upon the judgment of the Supreme Court 2007 (4) Supreme 29 (Kaushalyadevi Vs. Karan Arora) it is submitted by the learned counsel for the appellants that though it is almost very difficult to assess the damages in case of a child or young boy who was not employed, but the Court should apply realistic approach and award reasonable compensation. In the matter of Kaushalyadevi (supra), the age of the boy was around 14 years, the incident took place on 5/2/1997, the Supreme Court awarded a sum of Rs.1,00,000=00 and also approved the 12% rate of interest.

4. Mr.Munshaw, learned counsel for the respondent No.2, on the other hand submitted present is an accident of the year 1983 and the principles which are applied to a case of 1997 cannot be applied to the facts of the present case. He submitted that award of Rs.25,000=00 was

absolutely reasonable.

5. Taking into consideration the judgment of the Supreme Court and the facts that the deceased was around 17 years of age and should have started earning within a short future and also taking into consideration the principles laid down by the Apex Court in the matter of Kaushalyadevi (supra), I am of the opinion that the appellants - claimants are entitled to a sum of Rs.60,000=00 i.e. an additional amount of Rs.35,000=00 with interest at the rate of 12% per annum from the date of the claim petition till realisation.

6. The appeal is allowed to the extent indicated above. No costs.

(R.S. GARG, J.)

rafik